

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DONALD R. HUENE,

Plaintiff,

No. 2:11-cv-02109 JAM KJN PS

v.

U.S. DEPARTMENT OF THE
TREASURY, INTERNAL REVENUE
SERVICE; SIU CHAN; and
ANTHONY SHELLEY,

Defendants.

ORDER MODIFYING BRIEFING SCHEDULE

On May 14, 2012, the court set a briefing schedule to govern the briefing of defendant Internal Revenue Service's ("IRS") motion for summary judgment on plaintiff's Freedom of Information Act claims.¹ (Order, May 14, 2012, Dkt. No. 23.) On May 29, 2012, the IRS filed an ex parte motion to modify the briefing schedule, which represents that plaintiff consented to the new, proposed briefing schedule (Dkt. No. 25).² The court grants the IRS's

¹ This action proceeds before the undersigned pursuant to Eastern District of California Local Rule 302(c)(21) and 28 U.S.C. § 636(b)(1).

² For future reference, the court advises the IRS's counsel that if she wishes to make factual representations in support of an ex parte motion seeking a continuance, she should file a proper declaration in support of those factual representations.

1 unopposed motion in part.³ However, the court does not approve the IRS's request to truncate
2 the time for plaintiff to file a written opposition to the motion for summary judgment—the IRS's
3 ex parte motion reduces plaintiff's time to oppose the motion by approximately two weeks.
4 Additionally, the court does not approve the IRS's attempt to enlarge its time to file a reply brief
5 by approximately one week.

6 In light of the foregoing, IT IS HEREBY ORDERED that:

7 1. Defendant Internal Revenue Service's unopposed, ex parte motion to
8 modify the briefing schedule governing its forthcoming motion for summary judgment (Dkt.
9 No. 25) is granted in part.

10 2. No later than June 28, 2012, the IRS shall file and serve on plaintiff its
11 motion for summary judgment, as more fully explained in the court's May 14, 2012 order.

12 3. No later than July 26, 2012, plaintiff shall file a written opposition to the
13 motion for summary judgment.

14 4. The IRS may file a reply brief on or before August 2, 2012.

15 5. The court shall hear the IRS's motion for summary judgment on August
16 23, 2012, at 10:00 a.m., in Courtroom 25.

17 6. The IRS's ex parte motion to modify the briefing schedule filed on
18 May 25, 2012 (Dkt. No. 24) is denied as moot.

19 IT IS SO ORDERED.

20 DATED: May 30, 2012

21 
22 KENDALL J. NEWMAN
23 UNITED STATES MAGISTRATE JUDGE
24

25 ³ The court notes that the IRS's ex parte motion incorrectly relates a portion of the briefing
26 schedule originally set by the court. Whereas the court's order required the filing of a reply brief on
or before July 5, 2012 (Order, May 14, 2012, at 6), the IRS incorrectly represents that the order set
a reply brief deadline of July 28, 2012 (Ex Parte Mot. at 1).